

## REMARKS

This Amendment is submitted preliminary to the issuance of an Office Action in the present application and in response to the Official Action of May 3, 2006.

Claims 11-32 are pending in the application. Claims 11, 21 and 25 have been amended. Claims 16, 19, 20, 26, 29 have been canceled. Amendments to the specification have been made. No fee is due.

It is noted that the drawings are objected to because of applicant's failure to show every feature set forth in the claims. A new drawing sheet is submitted and labeled "Replacement Sheet".

It is further noted that claims 11-32 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Claims 11-32 are also rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11-14, 16-18, 21-26 and 28-32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 3,669,206 to Tax et al. in view of Brickner et al., of record.

Claims 11-14, 16-18, 21-32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 4,106,639 to Montgomery et al. in view of Tax et al. and Brickner et al.

Claim 15 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Tax et al. in view of Brickner et al., and further in view of Lassig, of record or U.S. Pat. No. 5,540,532 to Carder et al..

Claims 19 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Tax et al. in view of Brickner et al., and further in view of U.S. Pat. No. 3,828,940 to Cooper.

Claims 19 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Montgomery et al. in view of Tax et al. and Brickner et al., and further in view of Cooper.

## **OBJECTION TO THE DRAWING**

Applicant has made amendments to the FIG. 1 in order to show all elements presently claimed. More specifically, FIG. 1 has been amended as follows:

- a) the telescopic feature of the arm (13) and its spreader has been indicated by adding a respectively labeled box. Please note that the terms "gripper" and "spreader" are used interchangeably in the description. Paragraph [0020] of the instant specification has been amended accordingly.
- b) the position transmitters set forth in claim 28 have been indicated by adding a respectively labeled box.

Claims 16, 19, 20, 26 and 29 have now been canceled.

With respect to the illustration of a single-level intermediate storage facility, set forth in claim 13, it is applicant's contention that a separate illustration of a single-level intermediate storage facility in addition to the multi-level intermediate storage facility shown in the Figure and labeled with reference numeral "3" is redundant and is not required for the understanding of the subject matter so that a detailed showing is believed to be unnecessary.

The specification has been amended to delete any reference to the subject matter considered "new matter" by the Examiner and to make some clarifications. No new matter has now been added.

With respect to the illustration of the subject matter of claim 25, applicant wishes to note as follows: Claim 25 recites as structural elements a) the cargo, b) the second hoist and c) a single rail mounted to the ground. All these elements are shown in the sole Fig. and labeled with reference numerals 18, 11, 12, respectively. Claim 25 further sets forth the movement of the cargo by the second

hoist with its center of gravity above the rail (see also paragraph [0023], page 8, lines 15, 16 of the instant specification). It is applicant's contention that the Fig. clearly shows the relationships between the structural elements involved (so that the need for a separate drawing is not necessary for the understanding of the subject matter sought to be patented).

Withdrawal of the objection to the drawing is thus respectfully requested.

### **REJECTION UNDER 35 U.S.C. §112, FIRST PARAGRAPH**

Applicant has amended Fig. 1, as discussed under the previous heading, and canceled claims 19, 20, 26 to address the problems raised by the Examiner. These changes are self-explanatory, so that further discussion is not necessary.

With respect to the rejection of the subject matter of claim 25, reference is again made to the previous heading. Claim 25 merely sets forth that the cargo is moved by the second hoist in such a manner that the center of gravity of the cargo is positioned above the rail. Claim 25 is clear on this point and described in the specification such as to reasonably convey to the skilled artisan the subject matter involved (*supra*).

Withdrawal of the rejection under 35 U.S.C. §112, first paragraph is thus respectfully requested.

### **REJECTION UNDER 35 U.S.C. §112, SECOND PARAGRAPH**

Applicant has canceled claims 19, 20, 26 and has amended claims 11, 21 and 25 to address the §112 2<sup>nd</sup> para. rejection. These changes are self-explanatory and cosmetic in nature and should not be considered as a narrowing amendment to trigger prosecution history estoppel.

The Examiner's objection to claim 21 is somewhat confusing because the reference to "by" appears to be unambiguous. Claim 21 sets forth that cargo is transferred directly by means of (not "from") the first long-distance transportation

means to the transfer zone. The first long-distance transportation means crosses hereby the rails of the second long-distance transportation means. Although claim 21 is clear on this point, applicant has amended claim 21 by changing "above" to --across--.

Withdrawal of the rejection under 35 U.S.C. §112, second paragraph, is thus respectfully requested.

**REJECTION OF CLAIMS 11-14, 16-18, 21-26 and 28-32 UNDER 35 U.S.C. §103(a) AS BEING UNPATENTABLE OVER TAX ET AL. IN VIEW OF BRICKNER ET AL.,**

The present invention, as set forth in claim 11, is directed to loading and unloading method which involves identification and removal of a cargo from a first transportation means by a first hoist for transfer to a transfer zone from where the cargo is then transported by a second hoist to a predetermined location of an intermediate storage facility. This concludes the unloading process. The loading process for loading the cargo to a second transportation means involves the second hoist which removes the cargo from the predetermined location in the intermediate storage facility for transfer to a predetermined position in the transfer zone, whereby this predetermined location is dependent on the particular site for depositing the cargo on the second transportation means. An essential feature of the present invention is the provision of a transfer zone where cargo is placed during loading and unloading. The transfer zone is hereby a stationary location which receives the cargo and from which the cargo is then removed. For reasons of clarity, applicant has amended claim 11 by expressly setting forth the immobility of the transfer zone, labeled with reference numeral "4" in the Figure. Although the specification does not expressly refer to "stationary" in this context of the transfer zone, it is applicant's contention that the specification inherently makes this clear. In this context, reference is made to paragraph [0008], page 4, last six lines, where it is described that the cargo is placed at a predetermined site in the

transfer zone" and then removed from this predetermined site to a position in the freight train (compare also paragraph [0013] of the instant specification).

The Tax et al. reference describes a container transporting system, using a crane 5 to unload containers 13 from a ship 4 and placing them onto vehicles 81, 82, 83 which then travel to respective storage areas for storage by means of further cranes 16. The Examiner equates the vehicles with the transfer zone of the present invention. This attempt must fail. As stated above, the transfer zone according to the present invention is an immobile location where the cargo is placed at a predetermined site and from which predetermined site the cargo is then removed. No travel of the cargo in the transfer zone is involved here. The cargo is merely deposited and lifted away with respect to a **same** predetermined location (see also page 4, fourth line from below). In contrast thereto, the container in Tax et al. is deposited on a vehicle and then **moved away** by this vehicle to a storage area. Only at that point is the further crane being used.

The Brickner reference has been applied to merely show the disclosure of an identification step. Thus, a combination of Tax et al and Brickner et al. would not produce the present invention because of the absence of a stationary transfer zone.

For the reasons set forth above, it is applicant's contention that neither Tax et al. nor Brickner et al, nor a combination thereof teaches or suggests the features of the present invention, as recited in claim 11.

As for the rejection of claims 12-14, 17, 18, 21-24, 28, 30-32, these claims depend on claim 11, share its presumably allowable features, and therefore it is respectfully submitted that these claims should also be allowed.

The subject matter of claim 24 is further considered allowable on its own merits as claim 24 recites other features of the invention neither taught nor suggested by the applied prior art. Claim 24 recites the placement of the cargo in the transfer zone at a location to allow the first hoist to transfer the cargo to a particular location on the second transportation means. As a result, loading times

are short. This interrelationship between the stationary transfer zone, first hoist and second transportation means is absent from the applied prior art.

Withdrawal of the rejection under 35 U.S.C. §103(a) as being unpatentable over Tax et al. in view of Brickner et al. is thus respectfully requested.

**REJECTION OF CLAIMS 11-14, 16-18, 21-32 UNDER 35 U.S.C. §103(a) AS BEING UNPATENTABLE OVER MONTGOMERY ET AL. IN VIEW OF TAX ET AL. AND BRICKNER ET AL.**

The Tax et al. and Brickner et al. references have been discussed under the previous heading.

The Montgomery et al. reference describes a container loading system, using a crane B for transferring a container from a storage area 35 to a work station 16 from where a conveyor A moves the container to a work station 20. A crane C then transfers the container from the work station 20 to a ship D. The process can also run in opposite order, i.e. to transfer a container from the ship D ultimately to the storage area 35 via the cranes B, C and intermediate conveyor A. In Montgomery et al., the containers are thus serially conveyed by the conveyor A between the work stations 16, 20 (compare col. 6, lines 42-43). Therefore, also Montgomery et al. lack the provision of a stationary transfer zone, whereby cargo is deposited by a first hoist in the transfer zone at a predetermined location and is then removed from **this same** predetermined location by a second hoist for transfer to a storage facility.

For the reasons set forth above, it is applicant's contention that neither Montgomery et al., nor Tax et al., nor Brickner et al, nor any combination thereof teach or suggest the features of the present invention, as recited in claim 11.

As for the rejection of claims 12-14, 17-18, 21-24, 28, 30-32, these claims depend on claim 11, share its presumably allowable features, and therefore it is respectfully submitted that these claims should also be allowed.

The subject matter of claim 24 is further considered allowable on its own merits as discussed under the previous heading.

Withdrawal of the rejection under 35 U.S.C. §103(a) as being unpatentable over Montgomery et al. in view of Tax et al. and Brickner et al. is thus respectfully requested.

#### **REJECTION OF CLAIMS 15, 19, 20 UNDER 35 U.S.C. §103(a)**

Claim 15 depends from claim 11 and contains all the limitations of claim 11. As such, claim 15 is patentable over the applied prior art in the same manner as claim 11.

Claims 19 and 20 have been canceled.

Withdrawal of the rejection of claim 15 under 35 U.S.C. §103(a) is thus respectfully requested.

#### **CITED REFERENCES**

Applicant has also carefully scrutinized the further cited prior art and finds it without any relevance to the newly submitted claims. It is thus felt that no specific discussion thereof is necessary.

#### **CONCLUSION**

Applicant believes that when reconsidering the claims in the light of the foregoing amendments and above comments, the Examiner will agree that the invention is in no way properly met or anticipated or even suggested by any of the references however they are considered. As a result, it is respectfully submitted that all claims on file should be considered patentably differentiated over the art and should be allowed.

Reconsideration and allowance of the present application are respectfully requested.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully requested that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. If the Examiner feels that it might be helpful in advancing this case by calling the undersigned, applicant would greatly appreciate such a telephone interview.

Respectfully submitted,

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